

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

THOMAS SOLLY

Plaintiff

v.

UNITED STATES OF AMERICA

and

MARCELLA HOSCH

Defendants

Case No. 1:23-cv-00402

**COMPLAINT
WITH JURY DEMAND**

Now comes Plaintiff Thomas Solly and for his Complaint states as follows:

FEDERAL JURISDICTION AND VENUE

1. This claim is brought against the United States of America for the negligence of a United States Postal Service (“USPS”) employee under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b) *et seq.*, which vests exclusive subject matter jurisdiction of such claims in the United States District Courts.

2. Under 28 U.S.C. § 1391(b) and 39 U.S.C. § 409, venue is proper because the events giving rise to this claim occurred within the Eastern Division of the Northern District of Ohio.

COMPLIANCE WITH CLAIMS PROCEDURE

3. On or about February 28, 2022, Plaintiff Thomas Solly timely filed an administrative tort claim with the United States USPS, pursuant to and in compliance with 39 C.F.R. § 912.5.

4. Plaintiff’s claim was assigned NTC File No. NT202218285 and File No. 440-20-00469494A.

5. To date, USPS has failed to make a final disposition of the claim, and pursuant to 28 U.S.C. § 2675(a), Plaintiff hereby deems such inaction a final denial of the claim.

6. Attached as Exhibit A is a true and correct copy of a January 31, 2023 letter sent by Plaintiff's counsel to USPS detailing USPS's failure to adjudicate the claim.

THE PARTIES

7. Plaintiff Thomas Solly is a resident of Parma, Cuyahoga County, Ohio.

8. Defendant United States of America operates the USPS, an independent agency of the executive branch responsible for providing postal service in the United States.

9. Defendant Marcella Hosch is a resident of Fairlawn, Summit County, Ohio, and was acting in her capacity as a postal worker for Defendant United States USPS.

COUNT I: NEGLIGENCE AND NEGLIGENCE *PER SE*

Marcella Hosch

10. On or about March 16, 2020, Plaintiff Thomas Solly was driving his 2003 Ford Escape north on Crocker Road in Westlake, Ohio.

11. As Plaintiff Solly approached the intersection of Crocker and Center Ridge Road, the traffic light was red, so he came to a complete stop behind another vehicle.

12. Moments later, Defendant Hosch, driving a 2018 Ford United States Postal Service mail truck, failed to maintain an assured clear distance ahead and collided with the back of Plaintiff's vehicle.

13. At all times relevant, Defendant Hosch was negligent in that she failed to exercise ordinary care.

14. At all times relevant, Defendant Hosch operated her vehicle in direct violation of her statutory duties imposed by the Ohio Revised Code, and was therefore negligent *per se*.

15. As a direct and proximate result of Defendant Hosch's negligence, Plaintiff Solly sustained injuries to his person; experienced pain, suffering, and disability, and will continue to do so for the indefinite future; incurred medical expenses for his care and attention and will continue to incur medical expenses into the future; and experienced and will continue to experience a loss of the enjoyment of life.

16. Plaintiff anticipates that the United States will certify that Defendant Hosch was within the course and scope of her employment with the USPS and will therefore move to substitute itself as the defendant for this claim pursuant to the provisions of the FTCA.

COUNT II: RESPONDEAT SUPERIOR

United States of America

17. Plaintiff incorporates all allegations set forth in all paragraphs of this Complaint as if fully rewritten herein.

18. At all times relevant, Defendant Hosch was acting in the course and scope of her employment by or agency with Defendant United States USPS when she caused the collision with Plaintiff's vehicle.

19. Under the doctrine of *respondeat superior*, and/or any other applicable legal doctrines of vicarious liability, Defendant United States USPS is responsible for injuries proximately caused by Defendant Hosch when she was acting in the course and scope of her employment and/or agency with Defendant United States USPS.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Thomas Solly demands judgment against the Defendants, jointly and severally, in an amount in excess of this Court's minimum jurisdictional limits, and in keeping with the value provided in his administrative claim submission (Form 95), and in an amount that will fully, fairly, and completely compensate Plaintiff for his injuries, plus expenses, attorneys' fees, and any other relief this Court finds appropriate.

JURY DEMAND

Plaintiff demands a trial by jury.

Respectfully submitted,

/s Drew Legando

Drew Legando (0084209)

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